

Franchise Tax Board**ANALYSIS OF ORIGINAL BILL**

Author: Smyth Analyst: Brian Werking Bill Number: AB 564
Related Bills: See Legislative History Telephone: 845-5103 Introduced Date: February 16, 2011
Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Municipal Shelter Spay-Neuter Fund

SUMMARY

This bill would allow taxpayers to make voluntary contributions to the Municipal Shelter Spay-Neuter Fund on their state personal income tax returns and require tax preparers to inform their clients of all contribution funds listed on the income tax return.

RECOMMENDATION AND SUPPORTING ARGUMENTS

No position.

PURPOSE OF THE BILL

According to the author's office, the purpose of this bill is to increase awareness of available voluntary contribution funds and to increase funding for voluntary spay and neuter efforts.

EFFECTIVE/OPERATIVE DATE

This bill would be effective and operative on January 1, 2012. If another fund is removed, the fund could first appear on the 2011 personal income tax return filed on or after January 1, 2012.

ANALYSISFEDERAL/STATE LAW

Current federal tax law provides a check-off to direct \$3 of a taxpayer's tax liability to the Presidential Campaign Fund. Designation of the \$3 amount does not affect a taxpayer's tax liability or refund amount.

Current state tax law allows taxpayers to make contributions of their own funds (not tax liability) on their tax returns to any of the 15 voluntary contribution funds (VCF) listed on the 2010 state personal income tax return (return).

Board Position:

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Department Director

Date

Selvi Stanislaus

03/24/11

With the following exceptions, VCFs remain on the return until they are either repealed or fail to meet their minimum contribution amount:

- Except for the California Seniors Special Fund, which has no sunset date, each VCF has a specific sunset date.
- Except for the California Seniors Special Fund, the California Firefighters Memorial Fund, and the California Peace Officer Memorial Foundation Fund, each VCF must meet an initial minimum contribution amount of \$250,000.
- Except for the California Fund for Senior Citizens, each of the remaining VCF minimum contribution amounts is adjusted annually for inflation.

The annual inflation adjustment is based on the percentage change in the California Consumer Price Index. The Franchise Tax Board (FTB) is required to make the following two determinations for each VCF by September 1 of each calendar year:

1. The minimum contribution amount required for the VCF to remain on the return for the following calendar year, and
2. Whether estimated contributions to the VCF will be less than the minimum contribution amount for that calendar year.

If the FTB estimates that a VCF will fail to meet or exceed the minimum contribution amount for a calendar year, that VCF is repealed effective January 1 of that calendar year.

Current state law provides that if the number of contingent voluntary contribution designations¹ that are eligible to be added to the personal income tax return is greater than the number of designations removed, then the voluntary contribution designations may be queued and added to the return in order of the date of enactment.

THIS BILL

This bill would re-establish the Municipal Shelter Spay-Neuter Fund (fund) and would allow taxpayers to designate their own funds (not tax liability) for contribution to the fund on their personal income tax returns in full dollar amounts of \$1 or more. Each signatory on a joint return may make the contributions individually. The designations for any taxable year must be made on the initial personal income tax return for the taxable year and, once made, are irrevocable.

This bill would require the FTB to revise the personal income tax return to include a designation space for the fund beginning with the first taxable year that another voluntary contribution fund is removed. This designation could be added to the 2011 tax return filed on or after January 1, 2012.

¹ A contingent voluntary contribution designation is a voluntary contribution designation that contains specific language stating that it may not be added to the return until another voluntary contribution designation is removed from the return.

For the second taxable year the fund is on the return, this bill would require the fund to meet the \$250,000 minimum contribution test. The FTB would be required to estimate by September 1 of each subsequent calendar year after the first taxable year the fund appears on the tax return that contributions made to the fund would meet or exceed the \$250,000 minimum contribution (as indexed for inflation). The law authorizing designations for this fund would be repealed if contributions made under this bill are estimated to be less than the minimum contribution amount.

This bill would allow the voluntary contribution designation to remain on the tax return for up to five years unless a later enacted statute deletes or extends that date.

Beginning with the third calendar year after the fund appears on the personal income tax return, the FTB would adjust the minimum contribution amount for the fund by September 1 of that year. The minimum contribution amount would adjust according to the California Consumer Price Index (also known as the CCPI), as specified.

This bill would specify that if payments and credits reported on the return do not exceed the taxpayer's liability, then the taxpayer's return shall be treated as if no designation has been made. If no designee is specified, a designated contribution amount would be transferred to the General Fund.

This bill would require the Controller to transfer money designated for this fund by taxpayers from the Personal Income Tax Fund to the Municipal Shelter Spay-Neuter Fund. Upon appropriation by the Legislature, money would be transferred from this fund to the State Controller's Office and the FTB for reimbursement of the costs associated with administering this fund. The remaining funds would be transferred to the Department of Food and Agriculture for distribution of grants to municipal shelters for the purposes of providing low cost or free spay-neuter services.

This bill would allow the taxpayer to take an itemized deduction on their federal and state tax returns for the year in which the voluntary contribution is made.

This bill would also require tax preparers, when preparing tax returns, to inform taxpayers of all existing voluntary contribution funds to which the taxpayer may contribute.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would not significantly impact the department's programs or operations.

LEGISLATIVE HISTORY

AB 233 (Hall, 2011/2012) would establish the California YMCA Youth and Government Fund as a voluntary contribution fund. This bill is currently in the Assembly Appropriations committee.

AB 764 (Swanson, 2011/2012) would establish the Victim-Witness Assistance Fund as a voluntary contribution fund. This bill is scheduled for hearing in the Assembly Revenue and Taxation committee on April 4, 2011.

AB 971 (Monning, 2011/2012) would extend the repeal date of the Sea Otter Fund designation from January 1, 2011, to January 1, 2016. This bill is scheduled for hearing in the Assembly Revenue and Taxation committee on April 4, 2011.

SB 164 (Simitian, 2011/2012) would extend the repeal date of both the State Children's Trust Fund and the Fish and Game Preservation Fund to January 1, 2018. This bill is scheduled for hearing in the Senate Governance and Finance committee on March 23, 2011.

SB 583 (Vargas, 2011/2012) would re-establish the Amyotrophic Lateral Sclerosis/Lou Gehrig's Disease Research Fund as a voluntary contribution fund, originally established by SB 1502 (Steinberg, Stats. 2008, Ch. 354). This bill is scheduled for hearing in the Senate and Governance committee on April 27, 2011.

AB 2291 (Mendoza, Stats. 2008, Ch. 328) originally established the same Municipal Shelter Spay-Neuter Fund as proposed by this bill, and was repealed January 1, 2010, by its own terms because the fund did not meet or exceed the minimum contribution amount for the 2009 taxable year.

PROGRAM BACKGROUND

The Municipal Shelter Spay-Neuter Fund first appeared on the 2008 income tax return and last appeared on the 2009 income tax return because the FTB estimated that the fund would not meet the required \$250,000 minimum contribution amount for the 2010 calendar year. By operation of law, the provision creating the fund was repealed effective January 1, 2010, and the fund was not included on the 2010 income tax return.

The annual contribution amount for calendar year 2009 was \$ 210,029, when there was no minimum contribution amount. The annual contribution amount for calendar year 2010 was \$194,462, when the minimum contribution amount was \$250,000.

OTHER STATES' INFORMATION

The states surveyed include: *Illinois, Massachusetts, Michigan, Minnesota, and New York*. These states were selected due to their similarities to California's economy, business entity types, and tax laws.

Michigan allows taxpayers to designate personal funds on their personal income tax returns to the Animal Welfare Fund.

Illinois, Massachusetts, Minnesota, and New York allow for taxpayer contribution designations on the personal income tax return; however, none of these states provide a voluntary contribution comparable to the one discussed in this bill.

FISCAL IMPACT

This bill would require some changes to existing tax forms and instructions and information systems, which could be accomplished during the normal annual update without cost to the department.

ECONOMIC IMPACT

Revenue Estimate

This bill would result in the following revenue losses:

Estimated Revenue Impact of AB 564 For Contributions Made On or After January 1, 2012 Enactment Assumed After June 30, 2011		
2011-12	2012-13	2013-14
N/A	-\$20,000	-\$20,000

This estimate does not consider the possible changes in employment, personal income, or gross state product that could result from this bill.

SUPPORT/OPPOSITION

Support: International Union of North America Locals 777 and 792, The Humane Society of the United States, and the Concerned Dog Owners of California.

Opposition: None provided by author.

ARGUMENTS

Pro: Taxpayers are able to fulfill their philanthropic desires by contributing to voluntary contribution funds on their income tax returns. This bill would allow a taxpayer to provide support for animal shelters to offer low-cost or free spay-neuter services that would help control the pet population and reduce the need to euthanize pets in animal shelters.

Con: There are currently 14 other voluntary contribution funds that appear on the personal income tax return. Some taxpayers may argue that the consistent addition of new funds on the tax return makes the return a cumbersome document and changes the primary purpose of the tax return from reporting taxes to making charitable contributions. Taxpayers who are inclined to contribute to this cause can do so through other voluntary methods.

LEGISLATIVE STAFF CONTACT

Brian Werking

Legislative Analyst, FTB

(916) 845-5103

brian.werking@ftb.ca.gov

Patrice Gau-Johnson

Asst. Legislative Director, FTB

(916) 845-5521

patrice.gau-johnson@ftb.ca.gov